

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2826

PETITION OF MARILYN RAYMOND

OPINION OF THE BOARD

(Opinion Adopted April 18, 2012)

(Effective Date of Opinion: April 27, 2012)

Case No. S-2826 seeks a special exception under Section 59-G-2.00 of the Zoning Ordinance to allow an accessory apartment. The subject property is Lot 31, Block 3, Westhaven Subdivision, located at 5115 Westridge Road, Bethesda, Maryland 20816, in the R-60 Zone.

The Hearing Examiner held a hearing on the application on March 8, 2012, closed the record in the case on March 23, 2012, and on March 26, 2012, issued a Report and Recommendation for approval of the special exception.

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| Decision of the Board: | Special Exception Granted Subject to The Conditions Enumerated Below. |
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The Board of Appeals considered the Report and Recommendation at its Worksession on April 18, 2012. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. The Petitioner is bound by her testimony, representations and exhibits of record identified in the Hearing Examiner's report and in this opinion
;
2. The Petitioner must comply with the conditions set forth in the Memorandum of Lynn McCreary, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 12):

- a. The total habitable space in the unit measures approximately 216 square feet. Based upon occupancy requirements only one person may occupy the unit.
 - b. A permanently installed stove that includes top burners and a convector oven must be provided. All applicable permits must be obtained and finalized for the proper installation of said stove
 - c. The double cylinder lock on the exterior door located in the bedroom must be removed.
3. Based on the record, the Board finds that there is adequate on-street parking to permit the subject accessory apartment in the absence of any off-street spaces, in accordance with Zoning Ordinance §59-G-2.00(c)(3)(ii);
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit;
6. Both the Petitioner, as trustee of the Marilyn M. Raymond Family Trust, and the Petitioner as an individual, are bound by the conditions of this special exception; and
7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Walter S. Booth, with Stanley B. Boyd, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 27th day of April, 2012.

Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.